



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD).No15441 of 2017

R.Muruganantham

.. Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Executive Officer,
Melattur Grade I Town Panchayat,
Thanjavur District.

.. Respondents

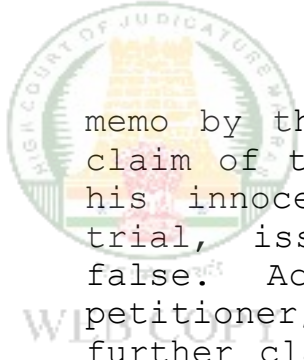
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to consider the revocation of suspension order dated 12.10.2013 issued to the petitioner and reinstate him with all attendant benefits in the light of the petitioner's representations, dated 27.02.2017 and 22.05.2017, within a time stipulated by this Court.

For Petitioner : Mr.W.Pamelin

For R1 : Mr.D.Muruganatham
Additional Government PleaderFor R2 : Mr.K.P.Krishnadass
Government AdvocateORDER

Mr.D.Muruganantham, learned Additional Government takes notice for the first respondent and Mr.K.P.Krishnadass, learned Government Advocate takes notice for the second respondent. By consent, the Writ Petition is taken up for final disposal.

2.The learned counsel for the petitioner submitted that the petitioner was placed under suspension by order dated 12.10.2013 passed by the first respondent namely, the District Collector, Thanjavur, citing a reason that the petitioner was implicated in a criminal case registered in Crime No.243/2013 for alleged offences under Sections 294(b), 302 and 506(ii) r/w. Section 34 of I.P.C. in Ayyampettai Police Station. Followed by the order of suspension, dated 12.10.2013, he was also issued with a charge



memo by the first respondent herein on the same day. But, the claim of the petitioner shows that when he was able to establish his innocence against the charge in the criminal case during trial, issuance of charge memo is absolutely unwarranted and false. Accepting his defence, the Trial Court has acquitted the petitioner, by judgment dated 25.09.2015. Therefore, it is his further claim that when he was placed under suspension based on a registration of criminal case as I mentioned above, subsequent to the order of acquittal passed by the learned I Additional District and Sessions Judge (PCR), Thanjavur, on 25.09.2015, the order of suspension should automatically go and thereupon, the petitioner should have been reinstated.

3.The learned counsel for the petitioner further submitted that till date no appeal has been filed against the judgment dated 25.09.2015, passed by the learned I Additional District and Sessions Judge (PCR), Thanjavur. Therefore, the first respondent should be directed to revoke the suspension order and reinstate the petitioner in service.

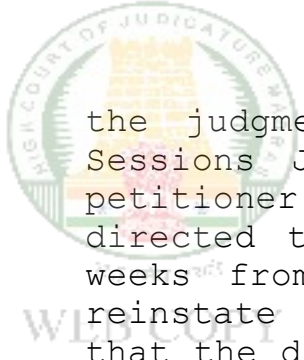
4.Mr.K.P.Krishnadass, learned Government Advocate appearing for the second respondent would submit that pursuant to issuance of the charge memo, dated 12.10.2013, after giving reasonable opportunity to the petitioner, the enquiry was also completed and the enquiry officer has also submitted his report on 05.07.2016. However, till date, no final order has been passed even after lapse of one year from the date of filing of report by the enquiry officer. It is also submitted that now the disciplinary authority is going to pass final order.

5.The submission made by the learned Government Advocate is recorded.

6.While dealing with prolonged suspension, the Hon'ble Apex Court in the case of Ajay Kumar Choudhary Vs. Union of India (UOI) and others reported in 2015 (3) CTC 119, in paragraph 8, has held as follows:

"8.Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/Disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the Memorandum of Charges, and eventually culminate after even longer delay."

<https://hcservices.ecourts.gov.in/hcservices/> 7.6 In the order placing the petitioner under suspension on 12.10.2013, passed by the first respondent herein shows that the petitioner suffered registration of a criminal case, in view of



the judgment passed by the learned I Additional District and Sessions Judge (PCR), Thanjavur, on 25.09.2015, acquitting the petitioner by giving benefit of doubt, the first respondent is directed to revoke the suspension order within a period of two weeks from the date of receipt of a copy of this order and reinstate the petitioner in service. It is needless to mention that the disciplinary authority/District Collector shall also pass an appropriate order on the basis of the report of the enquiry officer after furnishing a copy thereof to the petitioner inviting his further representation to the enquiry report. The abovesaid exercise shall be completed within a period of eight weeks. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Executive Officer,
Melattur Grade I Town Panchayat,
Thanjavur District.

+1CC to the Special Government Pleader SR.No. 73048

W.P.(MD)No.15441 of 2017

17.08.2017

vsg/smn2

AM/KK/SAR 1/06.09.2017/3P/4C